

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2000-402-C - ORDER NO. 2000-950  
NOVEMBER 27, 2000

IN RE: Application of The Netside Network, Inc. for ) ORDER DENYING  
a Certificate of Public Convenience and ) APPLICATION FOR A  
Necessity to Provide Local Exchange ) CERTIFICATE OF  
Telecommunications Services within the State ) PUBLIC CONVENIENCE  
of South Carolina. ) AND NECESSITY

**INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of The Netside Network, Inc. ("TNN" or "the Company") for a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services in the State of South Carolina.

The Commission's Executive Director instructed TNN to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of TNN's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. TNN complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition.

A hearing was commenced on October 25, 2000, at 10:30 a.m., in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided.

Franklin G. Shuler, Jr., Esquire, represented the Company. Greg Ferrante, President and Chief Executive Officer of TNN, and Jancine Tremblay, Chief Financial Officer of TNN, presented testimony on behalf of the Company. Jocelyn D. Green, Esquire, represented the Commission Staff. David S. Lacoste, Engineer Associate, and William P. Blume, Audit Manager Two, presented testimony on behalf of the Commission Staff.

We have reviewed the record in this case and for the reasons outlined below, TNN's Application for a Certificate of Public Convenience and Necessity is denied.

#### **SUMMARY OF TESTIMONY**

Blume filed his Direct Testimony with the Commission on October 11, 2000. Thereafter, on October 18, 2000, Tremblay prefiled rebuttal testimony and exhibits in response to Blume's direct testimony. Blume testified that after he reviewed Tremblay's testimony and exhibits, he had questions regarding the accuracy of TNN's retained earnings figure for the period ending August 31, 2000. After the Commission's Staff Counsel contacted TNN's attorney, Blume faxed his calculations concerning the Company's retained earnings to Tremblay, who admitted in her testimony that an error regarding the retained earnings existed in the financial statements that were originally filed with the Commission.

Blume testified that in his opinion reconciliations of TNN's accounts would have discovered the error in TNN's financial statements prior to Blume discovering the error. Blume testified further that he was not accusing TNN of trying to mislead the Commission; however, in his opinion, the Company should have paid careful attention to any documents filed with the Commission. In Blume's opinion, adequate internal

accounting controls would have identified the inaccuracies in the Company's financial statements prior to the Commission Staff identifying the error in the balance sheet.

Additionally, Blume testified the Company should maintain adequate internal accounting controls over its accounting data so that when errors occur similar to those in Tremblay's rebuttal exhibit, these mistakes are immediately red-flagged and corrected.

Tremblay testified that the financial statements she initially filed with the Commission attached to her rebuttal testimony were generated from Excel spreadsheets and not an accounting package. According to Tremblay, in February 2000, TNN's database in the Company's accounting system began to become unreliable by not posting sales to the appropriate accounts. Thereafter, Tremblay exported, or copied and transferred, the Company's data to Excel spreadsheets and she began keeping dual records, one in Excel and one in Dynamics, the Company's accounting software. Shortly after Tremblay began keeping dual records, the Dynamics data was rendered corrupt and useless. The Company then contacted the provider of the Dynamics program for the source of the problem. TNN also moved its server to Irmo, South Carolina for the sole purpose of accounting. Blume's discovery of the error in Exhibit 3 of Tremblay's original rebuttal testimony prompted Tremblay to finish re-entering all the Company's year 2000 data in Dynamics.

Tremblay testified that she thought the statements she filed initially were accurate; she stated she was not intentionally trying to misrepresent the financial position of the Company to the Commission. Tremblay later filed corrected rebuttal testimony with the Commission on October 24, 2000, which addressed the error in Exhibit 3 of her

original prefiled rebuttal testimony. Tremblay also testified that she did not have any doubts about the accurateness of the exhibits attached to her corrected prefiled rebuttal testimony. She also testified that the Dynamics accounting package has automatic reconciliation and flags any necessary accounts. Additionally, Tremblay testified TNN has implemented every safeguard possible in its Dynamics system including back-up systems. Furthermore, Tremblay also testified that TNN employs a Certified Public Accountant who provides the Company's yearly financial statements and a lender who monitors TNN's activities monthly.

#### **FINDINGS OF FACT**

1. The Netside Network, Inc. is a corporation duly organized under the laws of the State of South Carolina.
2. The Netside Network, Inc. seeks authority to provide local exchange telecommunications services in the State of South Carolina.
3. The Netside Network, Inc. does not possess the financial resources sufficient to provide local services in South Carolina as required by S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 1999). Financial resources include not only sufficient capital to provide telecommunications services but also experienced accounting personnel, reliable or dependable accounting software, and adequate internal accounting controls.

**CONCLUSIONS OF LAW**

1. The Netside Network, Inc. is a corporation duly organized under the laws of the State of South Carolina. The Company's Application includes a copy of a Certificate of Existence from the South Carolina Secretary of State.

2. The Netside Network, Inc. seeks authority to provide local exchange telecommunications services in the State of South Carolina. By its Application, TNN requests authority from this Commission to provide local exchange telecommunications services in the State of South Carolina.

3. The Netside Network, Inc. does not possess the financial resources sufficient to provide local services in South Carolina as required by S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 1999). S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 1999) states, "In determining whether to grant a certificate under this subsection the [C]ommission may require, not inconsistent with the federal Telecommunications Act of 1996, that the (1) applicant show that it possesses technical, financial, and managerial resources sufficient to provide the services requested... ." Financial resources include not only sufficient capital to provide telecommunications services but also experienced accounting personnel, reliable or dependable accounting software, and adequate internal accounting controls. On October 11, 2000, Commission Staff witness Blume prefiled direct testimony with the Commission regarding Staff's review of TNN's financial statements that were a part of the Company's application. These financial statements illustrate the financial position of LogicSouth, Inc. On October 18, 2000, Tremblay prefiled rebuttal testimony and exhibits with the Commission on behalf of TNN to

respond to the testimony of Blume. On October 24, 2000, Tremblay filed corrected prefiled rebuttal testimony and exhibits with the Commission, after Blume contacted Tremblay with his concerns regarding the retained earnings figure in Exhibit 3 attached to Tremblay's original prefiled rebuttal testimony.

"The Commission sits as the trier of facts, akin to a jury of experts." *Hamm v. South Carolina Public Service Com'n*, 309 S.C. 282, 287, 422 S.E.2d 110, 113 (1992). "The weight and credibility assigned to evidence presented is a matter peculiarly within the province of the PSC." *South Carolina Cable Television Ass'n v. Southern Bell Tel. and Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992). Tremblay testified that the Excel spreadsheets she used initially for her original prefiled rebuttal testimony had very few internal controls. She also testified that the accounting software that the Company is currently using has internal controls. Additionally, Tremblay proffered that the Dynamics accounting software, which was used to create the exhibits attached to her corrected prefiled rebuttal testimony, has automatic reconciliation and flags any necessary accounts. We are not persuaded by Tremblay's testimony and therefore we do not believe that the Company's accounting software has adequate internal accounting controls for the reasons discussed below. The evidence presented at the hearing simply fails to indicate TNN has properly implemented adequate internal accounting controls.

First, if the Company had adequate internal accounting controls, the Company would have discovered the error concerning the retained earnings prior to Blume's discovery of the error and subsequent reporting of the error to TNN. Second, we concur with Blume when he testified that had the Company properly reconciled its accounts,

TNN would have discovered the error in its August 31, 2000, balance sheet prior to filing incorrect financial information with this Commission. Additionally, Tremblay testified that earlier this year the Company's accounting software was rendered corrupt and useless. Yet, Tremblay provided no evidence at the hearing that the corruption has been corrected.

We take a very dim view of TNN filing flawed financial information with this Commission. Adequate internal accounting controls would have recognized and red-flagged the error in the August 31, 2000, balance sheet immediately and adequate internal accounting controls would have provided the Company the opportunity to file reliable financial information with the Commission. Tremblay testified that the Company now has adequate internal accounting controls in place; however, we are not persuaded by her testimony and based on the evidence presented, we are not convinced that adequate internal accounting controls are currently in place. We must stress the importance of TNN filing reliable, accurate information with this Commission. The Commission Staff is not obligated to inform companies like TNN of errors that are discovered in documents which are filed with the Commission for evidence in formal, evidentiary hearings before this Body.

IT IS THEREFORE ORDERED THAT:

1. TNN's Application for a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services within the State of South Carolina is denied.

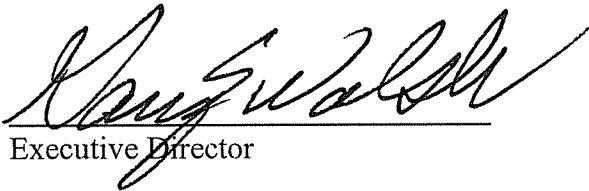
2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)